

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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|--------------------------|---|--------------|
| RODNEY HANDY, JR. | : | CIVIL ACTION |
| | : | |
| v. | : | No. 17-3107 |
| | : | |
| LEELONI PALMIERO, et al. | : | |

ORDER

AND NOW, this 22nd day of August, 2019, upon consideration of Defendant John Palmiero,¹ Sergeant Ubirajara Baldomero, Detective Hagy, Detective Horger, and Detective Sullivan's Motion for Summary Judgment, Plaintiff Rodney Handy, Jr.'s opposition thereto, Defendants' reply, Handy's sur-reply, which was filed without leave of Court, and the parties' presentations at the August 19, 2019, oral argument, and for the reasons set forth in the accompanying Memorandum, it is ORDERED:

- Defendants' Motion for Summary Judgment (Document 23) is GRANTED insofar as judgment is entered in favor of Defendants on Count V of Handy's Amended Complaint.
- Handy's claims for defamation (Count VII), libel (Count VIII), and slander (erroneously labeled as "Count VIII") are DISMISSED for lack of subject matter jurisdiction.
- Handy's Motion to Strike Defendants' Answer with Affirmative Defenses and Those Portions of Their Motion for Summary Judgment Asserting Said Defenses (Document 24) is DISMISSED as MOOT.

¹ The caption of this matter mis-identifies Defendant Palmiero as Leeloni Palmiero. Handy should have moved to amend the caption of this caption under the "misnomer rule," *see Zameska v. Seguors Ing Commercial America, S.A. de C.V.*, 2005 WL 615749, at *1 (E.D. Pa. Mar. 15, 2015) (noting the "misnomer rule" operates "where plaintiff has actually sued and served the correct party but has mistakenly sued the wrong name of the defendant in the original captions"). He did not. Nevertheless, the Court will refer to the correct Defendant, *John Palmiero*.

- Defendants’ Motion in Limine to Preclude Evidence or Testimony Regarding Plaintiff’s Prior Lawsuit Against the City of Philadelphia, Officer Darden and Officer Taylor (Document 28) is DISMISSED as MOOT.

- Handy’s Motion to Strike Defendants’ Response in Opposition to Plaintiff’s Answer with Affirmative Defenses and Those Portions of Their Motion for Summary Judgment Asserting Said Defenses (Document 37) is DISMISSED as MOOT.

The Clerk of Court is directed to mark this case CLOSED.

BY THE COURT:

/s/ Juan R. Sánchez
Juan R. Sánchez, C.J.